

REMARKS/ARGUMENTS

The office action of August 12, 2003 has been carefully reviewed and these remarks are responsive thereto. Reconsideration and allowance of the instant application are respectfully requested.

Claims 1-49 and 51-55 are pending. Claim 50 is withdrawn and claim 55 is new. Claims 1, 4-9, 11, 13, 18-23, 29, 35-39, 43 and 49 were rejected under 35 U.S.C. § 102(b) as being anticipated by Sandreid (U.S. Pat. no. 5,083,350). Claims 50 and 54 were rejected under 35 U.S.C. § 102(b) as being anticipated by Miller et al. (U.S. Pat. no. 5,312,410). Claims 10, 24, 40 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Sandreid. Claims 1, 4, 5 and 8 were rejected under the doctrine of obviousness-type double patenting. Claims 2, 3, 12, 14-17, 25-28, 30-34, 41, 42, and 44 were objected to as being dependent on rejected claims but were allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims. Claims 45-48 and 51-53 were allowed.

In response, the Applicants have rewritten claims 2, 3, 12, 14-17, 25-28, 30-34, 41, 42 and 44 to avoid dependency from rejected claims and respectfully request allowance thereof. The Applicants have withdrawn claim 50 and added claim 55. Claims 4-7, 10, 19-21, 24, 35-37, and 40 have been modified to clarify what is being claimed. In addition, independent claims 1, 13, 29, 49 and 54 have been modified and the applicants have respectfully traversed the Examiner's rejection of these claims and the respective claims dependent thereof and submit the following remarks.

Newly Added Claim

Claim 55 has been added and is believed to be patentable over all prior art of record, including Sandreid and Miller. Thus, claim 55 is believed to be in allowable condition. Favorable consideration of new claim 55 is earnestly requested.

Rejection under 35 U.S.C. §102(b) - Sandreid

Independent claims 1, 13, 29 and 49 were rejected under 35 U.S.C. §102(b) as being anticipated by Sandreid (U.S. Pat. No. 5,083,350). The Applicants have amended claims 1, 13,

29 and 49. Specifically, claims 1, 13, 29 and 49 now recite “a clamping surface adaptive to receive a tensioning tool.” Support for this is found in the specification at page 7, paragraph 27, line 2, thus no new matter has been added. The Applicants submit that Sandreid does not disclose every limitation of claims 1, 13, 29 and 49 because Sandreid fails to disclose, teach or suggest a clamping surface adaptive to receiving a tensioning tool. Therefore, Sandreid fails to anticipate independent claims 1, 13, 29 and 49 and the respective claims depending therefrom. Withdrawal of this rejection is respectfully requested.

Rejection under the Doctrine of Obviousness-Type Double Patenting

Claims 1, 4, 5, and 8 were rejected under the doctrine of obviousness-type double patenting as being unpatentable over claims 1, 4, and 9 of US Pat. No. 6,378,289 to Trudeau et al. (“the ‘289 patent”). The office action of August 12, 2003 stated “all the elements of claim 8 are to be found in claim 1 of the patent.” As noted above, however, independent claim 1 has been modified to recite a “clamping surface adaptive to receive a tensioning tool.” The Applicants respectfully assert that as modified, all the elements of claim 1, 4, 5 and 8 of the present invention are not found in claim 1, 4, or 9 of the ‘289 patent. Therefore, withdrawal of this rejection is respectfully requested.

Rejection under 35 U.S.C. §102(b) - Miller

Claims 50 and 54 were rejected under 35 U.S.C. §102(b) as being anticipated by Miller et al. (U.S. Pat. No. 5,312,410). Claim 50 has been withdrawn. Claim 54 has been amended to recite the step of “applying a clamping force to the elongate member through a saddle member.” The applicants respectfully submit that Miller fails to disclose, teach or suggest the use of a saddle member to apply a clamping force to an elongated member. As Miller does not disclose, teach or suggest all the limitations of claim 54, Miller does not anticipate claim 54. Withdrawal of this rejection is respectfully requested.

Rejection under 35 U.S.C. §103(a) – Sandreid

Claims 10, 24 and 40 were rejected under 35 U.S.C. § 103(a) as being obvious in light of Sandreid. The independent claims 1, 13 and 29, upon which these claims depend, have been amended to recited the limitation “clamping surface adaptive to receive a tensioning tool.” As noted above Sandreid fails to disclose, teach or suggest a clamping surface adaptive to receiving a tensioning tool. *See* MPEP 706.02(j) (“To establish a *prima facie* case of obviousness, three basis criterion must be met. ... [Third], the prior art reference[s] ... must teach or suggest all the claim limitations”). The Applicants respectfully submit that as the currently amended independent claims are nonobvious in light of Sandreid, the dependent claims 10, 24 and 40 are also nonobvious in light of Sandreid. Withdrawal of this rejection is respectfully requested.

Consequently, it is respectfully submitted that all the independent claims are in allowable condition and that all claims depending from these independent claims are allowable for the same reasons and for the additional limitations recited in those claims.

CONCLUSION

It is believed that a fee of \$568.00 is required with this submission and the Commissioner is authorized to debit our deposit account. If any additional fees are required or if an overpayment is made, the Commissioner is authorized to debit or credit our Deposit Account No. 19-0733, accordingly.

All rejections and objections having been addressed, Applicant respectfully submits that the instant application is in condition for allowance, and respectfully solicits prompt notification of the same.

Respectfully submitted,

BANNER & WITCOFF, LTD.

Dated: November 7, 2003

By: _____

Binal J. Patel

Registration No. 42,065

Banner & Witcoff, LTD.
Ten South Wacker Drive
Chicago, Illinois 60606
Tel: (312) 463-5000
Fax: (312) 463-5001